IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.S.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE V.K.MOHANAN

MONDAY, THE 13TH AUGUST 2007 / 22ND SRAVANA 1929

WA.No. 1985 of 2007()

AGAINST THE JUDGEMENT IN WPC.17139/2004 Dated 22/06/2007
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APPELLANT: PETITIONER:

S.RAJAN, CASHIER/CLERK,
KERALA HEALTH RESEARCH & WELFARE SOCIETY,
GENERAL HOSPITAL CAMPUS, RED CROSS ROAD,
THIRUVANANTHAPURAM.

BY ADV. SRI.GEORGE POONTHOTTAM

RESPONDENTS: RESPONDENTS:
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1. STATE OF KERALA REPRESENTED BY THE
SECRETARY TO GOVERNMENT, DEPARTMENT OF HEALTH,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

2. KERALA HEALTH RESEARCH & WELFARE SOCIETY
REPRESENTED BY ITS MANAGING DIRECTOR,
GENERAL HOSPITAL CAMPUS, RED CROSS ROAD,
THIRUVANANTHAPURAM.

3. SANALKUMAR, CASHIER,
KERALA HEALTH RESEARCH & WELFARE SOCIETY,
GENERAL HOSPITAL CAMPUS, RED CROSS ROAD,
THIRUVANANTHAPURAM.

4. P.N.MOHANAN (FORMER MANAGING DIRECTOR),
KERALA HEALTH RESEARCH & WELFARE SOCIETY,
THIRUVANANTHAPURAM.), KRISHNA KRIPA,
PAZHAYA ROAD, MEDICAL COLLEGE, THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER BENNY GERVASIS

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION
ON 13/08/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

K.S.RADHAKRISHNAN & V.K.MOHANAN, JJ

W.A. 1985/2007

Dated this the 13th day of August, 2007

JUDGMENT

Radhakrishnan, J

Dispute is regarding the appointment to the post of Binder in the Kerala Health Research & Welfare Society. The stand of the Welfare Society is that as per the working arrangement appellant was appointed as Cashier-Clerk in the scale of pay of Rs.3050-5230 vide its impugned order dated 5.6.2002. Counsel for the appellant has referred to Ext.P2 Circular and submitted that he was appointed on the strength of Ext.P2 dated 8.5.2002.

2. Counter affidavit has been filed by the Society. It is stated in the affidavit that there is no such regular Circular as Ext.P2. Ext.R2(2) is the Circular issued by the Welfare Society dated 8.5.2002 where the mode of filling of post is as follows:-

> The post will be filled up either by transfer from posts in KHRWS in the same scale of pay or in the absence of applicants for such transfer by promotion from regular employees on scales of pay below the category of L.D.Clerks.

3. In the counter affidavit it is stated that the post of Cashier-Clerk as well as Binder is in the same scale of pay, ie, Rs.3050-5230 and the petitioner was posted to the post of

Cashier-Clerk only on the basis of working arrangement. Admittedly petitioner is not a Government employee. He is employed by the Welfare Society. This Court, sitting in this jurisdiction, is not justified, in the absence of recruitment rules, to interfere with the steps taken by the Society.

4. In such circumstances, the stand taken by the Society that it is only on working arrangement the petitioner was posted, cannot be disputed. Learned Single Judge has, therefore, rightly dismissed the writ petition. Appeal, therefore, lacks merit and the same is dismissed.

5. Counsel appearing for the appellant submitted that the post of Binder is now not existing. Counsel for the Society submitted that the petitioners will be accommodated in a suitable post. Above submission is recorded, and the appeal is disposed of as above.

K.S.RADHAKRISHNAN
Judge

V.K.MOHANAN
Judge

mrcs